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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 MICHAEL FOLEY,

Case No. 2:15-CV-2047 JCM (DJA)

8 Plaintiff(s),

ORDER

9 v.

10 FERNANDO PACCHIEGA, et al.,

11 Defendant(s).

12  
13 The Ninth Circuit referred this matter to the district court for the limited purpose of  
14 determining whether *pro se* plaintiff Michael Foley's in forma pauperis status should  
15 continue for his appeal (Ninth Circuit Case No. 22-15629) pursuant to 28 U.S.C. §  
16 1951(a)(3), or whether it should be revoked in the event the appeal is frivolous or taken in  
17 bad faith. Consistent with the following, the district court certifies that Foley's appeal is  
18 frivolous and recommends revocation of his in forma pauperis status.

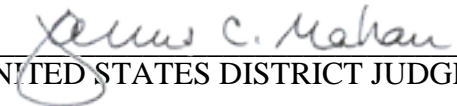
19 As stated in multiple orders (ECF Nos. 52; 58), Foley's primary contention that he  
20 was arrested based on an allegedly invalid warrant is refuted by the record. The record  
21 clearly shows that a Nevada family state court hearing master's recommended bench warrant  
22 converts to an enforceable order/judgment if no objections are filed within 10 days. (ECF  
23 No. 47-1 at 4).

24 Foley does not deny that he failed to file a timely objection. (ECF No. 58 at 3:11–  
25 18). Therefore, his civil rights claims related to this “false” arrest manifestly fail, and the  
26 court finds Foley's appeal frivolous. *See Hooker v. American Airlines*, 302 F.3d 1091, 1092  
27 (9<sup>th</sup> Cir. 2002) (holding that district courts have the power to deny leave to proceed in forma  
28 pauperis under 28 U.S.C. § 1915 if the court certifies that the appeal is frivolous as a whole).

1 IT IS SO ORDERED.

2 The clerk is directed to forward a copy of this order to the Clerk of the Ninth Circuit  
3 Court of Appeals at cmecf\_ca9central@ca9.uscourts.gov.

4 DATED July 1, 2022.

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6 UNITED STATES DISTRICT JUDGE